

MINUTES
TOWN OF GROTON
ZONING COMMISSION
SEPTEMBER 6, 2017 – 6:30 P.M.
TOWN HALL ANNEX – 134 GROTON LONG POINT ROAD
COMMUNITY ROOM 2

I. ROLL CALL

Regular members present: Hudecek, Marquardt, Smith, Sutherland
Alternate members present: Edgerton, Archer
Absent: Sayer
Staff present: Glemboski, Jones, Gilot

Chairperson Sutherland called the meeting to order at 6:30 p.m. and seated Archer for Sayer.

II. PUBLIC HEARINGS

1. Zoning Map Amendment ZCH17-02, 1 Bank Street, Mystic, PIN 261918305972, RS-8 Zone. Proposal is to change the zoning district of 1 Bank Street from RS-8 Zone to WDD Zone. Review is per Section 8.2 of the Zoning Regulations. (Patrick Roche & Kim Brault, Applicants)

Chairperson Sutherland read the legal notice.

Attorney Theodore Harris, 51 Main Street, Niantic, represented the applicants. He submitted three exhibits to the record: pictures, overlay, and mailings. Mr. Harris detailed the location of the property and the existing zones. This site would be an extension of the existing WDD zone.

Mr. Harris reviewed the agency referrals:

- Planning Commission – no comment
- Economic Development Commission – referral in support of the application
- Southeastern Connecticut Council of Governments - no adverse inter-municipal impact
- State of Connecticut Dept. of Energy and Environmental Protection - no conflicts

Mr. Harris also reviewed the application's consistency with the POCD, which recommends potential expansion of the WDD district, and compatibility with the existing tourist and commercial uses. The zone change does not address the change of use of the property. A special permit would be required for a use change.

Kim Brault, 1 Bank Street, a co-applicant, addressed the concerns of the neighborhood. She detailed the location of the property on the corner of Bank and West Main Street, and surrounding ledge faces John Kelly's park, Chelsea Groton Bank, Mystic Pizza and the Bank of America parking lot. She discussed the history of the house, built as a two-family house accessed from Bank Street until it was rebuilt after a fire in the 80's, when the access was changed to West Main Street.

Mr. Harris addressed the physical characteristics of the site; a ledge wall separates and isolates the property from the residential neighborhood. The applicants plan to live there but intend to eventually change it to a commercial use.

Staff discussed the existing allowed uses in the RS-8 district. Staff noted most of the uses would not be allowed due to due restrictions of the site, such as size. In the WDD zone, a special permit would be required for a change of use and the commission would make a determination on uses that are compatible with the WDD.

Staff reviewed the application, explained the attachments and maps, and comments from other agencies:

- Southeastern Connecticut Council of Governments
- State of Connecticut Department of Energy and Environmental Protection
- Planning Commission
- Economic Development Commission.

Staff distributed to commissioners a letter received into the office today from the owner of 21 Bank Street. The minutes of the Traffic Authority public meeting of May 12, 2016 were also distributed to the Commission. That meeting addressed the parking issues on Bank Street. As a result, “No Parking” signs were put up so there is parking on one side only of Bank Street. Staff reviewed a map with contour lines depicting the elevation of the site in relation to the residential neighborhood.

The Chair asked if it made sense to change the zone of individual parcels, or address the whole area. Staff said they are reviewing an expansion of the WDD, and it may be addressed with the zoning regulation rewrite.

The Chair asked for comments from the public.

John Moore, 15 Bank Street and owner of 0 Bank Street, presented a survey of his property and spoke against the application.

Diana Phaneuf, 8 Bank Street, had concerns with the owners because they do not live at the property full-time, the future use of the property, traffic on Bank Street, garbage and noise. She submitted a “protest of proposed amendment” petition.

David Squires, 22 Bank Street, spoke against the application. He said he was opposed to starting the transfer of a residential property to commercial. He submitted a GIS map of the neighborhood to the Commission. He discussed the location of the applicant’s property. He said the ledge does not isolate the property. He discussed the objectives of the WDD zone from the zoning regulations, which addresses the zone providing service to the residents, encroachment of commercial onto residential district; and quoted from a case from the City of Shelton regarding spot zoning. He also noted the property card had the name of Angela, who is not an applicant.

Michael Morrissey, 23 Bank Street, spoke against the application due to traffic.

Bob Sampson, 6 Bank Street, spoke in favor of the application. He said he was not against it, and trusted the town to make the right choice.

Jennifer Sampson, 6 Bank Street, said she is not against this first step.

Leo Roche, 27 Pearl Street, spoke in favor of the application.

Anna Troiano, 148 High Street, spoke against the application.

Kim Brault, an applicant, said the property is used as a vacation rental. She presented photos of views from their property. She said they do not have any residential street parking as a result of the changes the Traffic Authority made. She also noted that Angela, who is listed on the property card, is Patrick Roche's late wife.

Patrick Roche, 1 Bank Street, spoke about the isolation of the site.

Attorney Harris addressed the criteria of the WDD, the node shown in the POCD, and said the zone change promotes the goals of the POCD. The physical characteristics make it ideal for the zone change, and it is not spot zoning. He also submitted a Hamden court case regarding spot zoning.

Diana Phaneuf, Bank Street, spoke again about the traffic on Bank Street, large trucks serving Mystic Pizza and fire and rescue vehicles going to Mystic Academy.

Smith asked if a town attorney opinion was required for the spot zoning issue. Staff said they hadn't reviewed the court cases presented tonight. The commission concurred that they would like the opinion of the Town Attorney before they closed the public hearing.

Staff said they also would need to check the protest document, so they recommended continuing the public hearing.

MOTION: To continue the public hearing to the next regular meeting on October 4, 2017.

Motion made by Smith, seconded by Archer, so voted unanimously.

2. Special Permit #354, 21 West Main Street, Mystic, PIN 261918401886, WDD Zone. Proposal is for outdoor seating at an existing restaurant. Review is per Sections 6.3 and 8.3 of the Zoning Regulations. (Mystic Restaurant Group, Inc., Applicant)

Chairperson Sutherland read the legal notice.

Jeffrey Low, 141 Broadway, Norwich, of Chinigo, Leone and Maurzo LLP, represented the applicant, Mystic Restaurant Group.

Mr. Low submitted a GIS map of the subject property and proof of mailings to the Commission. He said the applicant had requested to allow outdoor seating at the existing restaurant. This is not a new use but a request for accessory sidewalk seating. A lease approval was granted by the State Department of Transportation. The request was reviewed by Ledge Light Health District and the Fire Marshal, and there were no concerns. An application was submitted to the Liquor Control Commission. Ropes and stanchions or some other method must be used to separate the seating area from the walkway. The sidewalk bump-out in that location allows more walking space on the sidewalk. There are two outside speakers which have been there for about ten years, and there have been no concerns with the noise. Staff recommended turning off the music and removing the seating at 10 pm. The applicant would like to be able to serve customers after that time. The six seats shown outside would be additional to the inside seating. Parking requirements are met by the existing use. There would be no outside

noise projection of any inside entertainment. It was noted that Chapter One and Mystic Pizza also have outside speakers.

The Chairperson asked about the narrowing of the sidewalk with the installed bench and receptacle from the streetscape project, and allowing tables in the right-of-way. Staff said the state granted the lease, and they have conditions that will minimize impact to pedestrian traffic.

Mr. Low reviewed the amount of encroachment with the stanchions, the width of the sidewalk, distance to the bench, seasonality of the use, the property lines and the location of the tables as close to the façade as possible.

Staff said time limits may want to be considered, as well as requiring the restaurant doors and windows to remain closed after 10 pm., out of respect to the residents.

The Chair asked for comments from the public.

Rod Desmarais, 81 High Street, owner of Drawbridge Ice Cream and Drawbridge 24 Deli, spoke in favor of the application, and in favor of outdoor seating in downtown Mystic. He said that business owners need clarity regarding the definition and enforcement of outdoor seating in downtown Mystic.

Dan Van Kruiningen, 35 Shewville Road owner of Chapter One Restaurant, Mystic, said he also had obtained a lease from the state to put outside seating in front of his restaurant. The town's code enforcement officer made him remove the outside tables because he needed a special permit. He said he is in favor of outside seating in downtown Mystic, but frustrated with the process.

Jeffrey Low, spoke about the lease and explained to the state that the special permit would be required by town before tables can be put out.

Dan Van Kruiningen, Chapter One, said he asked the town for a legal definition of temporary, but has not received a response from the town.

The public hearing was closed at 8:13 pm.

III. CONSIDERATION OF PUBLIC HEARINGS

1. ZCH17-02, 1 Bank Street, Mystic (Patrick Roche & Kim Brault, Applicants)

The public hearing was continued to October 4, 2017.

2. Special Permit #354, 21 West Main Street, Mystic (Mystic Restaurant Group, Inc., Applicant)

MOTION: To approve Special Permit #354, 21 West Main Street, Ancient Mariner, to add outdoor seating with the following conditions and findings:

Conditions:

1. The outdoor seating area shall be closed by 10:00 pm each evening.

2. Any outside music, including speakers, shall be turned off by 10:00 pm each evening and all restaurant doors and windows shall remain closed after 10:00 pm to not allow excess noise and indoor music to emanate onto the street.

Findings and Reasons for Approval:

The Commission finds that this application complies with the objectives of Section 6.3 of the Zoning Regulations in that it will enhance the unique qualities of Mystic and is in keeping with the goals of the Plan of Conservation and Development.

The Commission also finds that this application complies with the special permit objectives in Section 8.3-8 of the Zoning Regulations in that it does not alter the essential characteristics of the Mystic area, does not cause traffic congestion or safety conflicts, does not conflict with the purposes of these regulations, and will not have a potential environmental impact on adjacent water bodies, including Long Island Sound.

Motion made by Marquardt, seconded by Hudecek.

Motion to amend Condition #1 to:

“The outdoor seating area shall be closed for service by 10:00 pm each evening.”

Amended motion made by Marquardt, seconded by Smith. Amended motion passed unanimously.

The commission asked staff to clarify the outdoor seating section when they are working on the zoning regulations rewrite.

IV. PUBLIC COMMUNICATIONS - None

V. APPROVAL OF THE MINUTES

1. August 2, 2017

MOTION: To approve the August 2, 2017 minutes as written.

Motion made by Smith, seconded by Archer. Motion passed 3-0-2 (2 abstentions-Marquardt, Hudecek).

VII. OLD BUSINESS

1. Zoning Regulations Rewrite Project

The project was discussed under Commission Priorities in New Business.

VIII. NEW BUSINESS

1. Commission Priorities – Discussion

Chairperson Sutherland said time is of the essence with regard to the regulation rewrite. Staff said the commission will be abolished on January 1, 2019, with a three

month notification period prior to that date. Staff has reserved the room for the third Wednesday of each month for special meetings to review regulations, if necessary.

Staff said the Town Council and new Town Manager made it very clear they want to see progress. Staff has been working on the draft they received from Horsley Witten. They will try to target a few interim higher-impact amendments, such as the mixed used regulations for downtown centers, and have one hearing for those sections. Staff hopes that they will have something ready for the commission by the next meeting. They have been working on the consolidation of zones, consistency of setbacks and lot coverage, and are now working on the use tables, conditional or special permit requirements, for the October meeting. The commission asked staff to approach the Planning Commission for representatives to attend the Zoning Commission's special meetings to keep up with the progress of the regulations.

Smith asked about the Nautilus Memorial Design District (NMDD). He recommended eliminating the district, and staff noted they are currently reviewing the area.

Staff distributed copies of the 2016 Plan of Conservation and Development to the commissioners.

2. Report of Commission - None

3. Receipt of New Applications

a. SPEC355 - Mumford Cove Beach Association Sand Replenishment, 3 Neptune Drive (CAM)

A public hearing was scheduled for October 4, 2017. Hudecek stated he would not be at that meeting.

IX. REPORT OF CHAIRPERSON - None

X. REPORT OF STAFF

Staff introduced new staff, Kara Hovland, replacing Robin Silsby in the Planning Commission.

XI. ADJOURNMENT

Motion to adjourn at 8:38 p.m. made by Smith, seconded by Archer, so voted unanimously.

Susan Marquardt, Secretary
Zoning Commission

Prepared by Debra Gilot
Executive Assistant

